

II. Rejection of claims 1, 4, 5, 12, 13 and 29 under 35 U.S.C. 103(a)

The Office Action rejected claims 1, 4, 5, 12, 13, and 29 as being unpatentable over Coe (published U.S. patent application 2001/0036943). As explained below, Coe is not prior art with regard to the claims rejected, so the rejection should be withdrawn.

As shown by the attached September 7, 2006 Donovan declaration, the claimed invention was conceived and a patent application diligently prepared and directed thereto on a date prior to the April 7, 2000, the effective filing date of Coe.

As further set forth by the attached Donovan declaration:

1. the instant patent application is a continuation of application 10/199,222 filed July 18, 2002, which is a continuation of patent application serial number 09/550,371, filed with the patent office on April 14, 2000.
2. As shown by Exhibit B, which is a true and correct copy of page 32 from the draft patent application attached to the email received by Stephen Donovan from outside counsel on a date before April 7, 2000 (Exhibit A), Example 7 of the draft application discloses the administration of botulinum toxin to treat pain caused by burns, hereby showing conception of the claimed invention on a date before April 7, 2000.
3. Thus, the parent application serial number 09/550,371 was prepared on a date prior to the April 7, 2000 effective filing date of Coe. Hence Coe is not prior art with regard to the rejected claims.

Therefore, the rejection of the claims over Coe should be withdrawn.

III. Rejection of Claims 1, 4, 5, 9, 12, 13 and 29-36 under the judicially created doctrine of obviousness-type double patenting

The Office Action has rejected claims 1, 4, 5, 9, 12, 13 and 29-36 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4, 5, 9, 12, 13 and 31-32 of co-pending application 10/630,206 (based on the amended claims filed June 22, 2005).

Enclosed is a terminal disclaimer over co-pending application 10/630,206.

Hence, the rejection should be withdrawn.



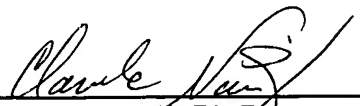
VI. Conclusion

All issues raised in the Office Action have been addressed.

Examination and allowance of claims 1, 4, 5, 9, 12, 13 and 29-36 is requested.

Respectfully submitted,

Date: September 8, 2006



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Enclosed: Declaration with Exhibits A and B
Terminal Disclaimer

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CERTIFICATE OF EXPRESS MAIL UNDER 37 C.F.R. § 1.10

I hereby certify that this response and the documents referred to as enclosed therein are being deposited with the United States Postal Service on this date **September 8, 2006** in an envelope as "Express Mail Post Office to Addressee" Mailing Label number **EV763326277US** addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Adriane Giberson

Name of person mailing paper



Signature of person signing paper

Date: SEPTEMBER 8, 2006